

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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THE ESTATE OF YARON UNGAR  
by and through its Administrator,  
David Strachman,

DVIR UNGAR, minor,  
by his guardians and next friends,  
YISHAI UNGAR, minor,  
by his guardians and next friends,

05 Civ. 3710 (RWS)

PROFESSOR MEIR UNGAR,  
JUDITH UNGAR, individually and in  
their capacity as legal guardians of Petitioners  
Dvir and Yishai Ungar,

ANSWER

RABBI URI DASBERG,  
JUDITH DASBERG, in their capacity as legal  
guardians of Petitioners Dvir and Yishai Ungar,

AMICHAH UNGAR,  
DAFNA UNGAR and

MICHAH COHEN,

Petitioners,

- against -

MORGAN STANLEY/  
MORGAN STANLEY DW, INC.,  
REPUBLIC BANK OF NEW YORK (HSBC)/  
HSBC BANK USA,  
CHASE BANK OF TEXAS-J.P. MORGAN  
CHASE & CO./J.P. MORGAN CHASE BANK,  
CITIBANK/CITIGROUP, INC., and  
THE HOLY LAND FOUNDATION FOR  
RELIEF AND DEVELOPMENT,

Respondents.

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JPMORGAN CHASE BANK, N.A.,

Respondent-Stakeholder and  
Third-Party Petitioner,

- against -

UNITED STATES OF AMERICA, THE HOLY LAND  
FOUNDATION FOR RELIEF AND DEVELOPMENT,  
THE ESTATE OF YARON UNGAR, by and through its  
Administrator, David Strachman, DVIR UNGAR, minor,  
by his guardians and next friends, YISHAI UNGAR,  
minor, by his guardians and next friends, PROFESSOR  
MEIR UNGAR and JUDITH UNGAR, individually and  
in their capacity as legal guardians of Petitioners Dvir  
and Yishai Ungar, RABBI URI DASBERG and  
JUDITH DASBERG, in their capacity as legal  
guardians of Petitioners Dvir and Yishai Ungar,  
AMICHAH UNGAR, DAFNA UNGAR and MICHAL  
COHEN,

Third-Party Respondents-  
Adverse Claimants.

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Respondents Morgan Stanley ("Morgan Stanley") and Morgan Stanley DW, Inc.  
("MSDW"), by their attorneys Krebsbach & Snyder, P.C., allege as follows for their  
Answer to the Petition herein pursuant to CPLR §§ 5225 and 5227:

1. Admit, upon information and belief, that Petitioners obtained a judgment  
against Harakat Al-Muqawama Al Islamiyya ("HAMAS") in the United States District  
Court for the District of Rhode Island on February 11, 2004, and registered the judgment in  
this Court as Judgment No. 04-1032 on June 1, 2004.

2. Deny knowledge or information sufficient to form a belief as to the truth of

the factual averments contained in paragraph 2 of the Petition, and state further that the remaining averments contained in paragraph 2 constitute a legal conclusion as to which no response is required.

3. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 3 of the Petition, except admit that in early September 2004, a United States Marshal served a writ of execution on the offices of Respondent Morgan Stanley at 1221 Avenue of the Americas, New York, New York, and further admit that MSDW, a wholly owned subsidiary of Morgan Stanley, holds funds in accounts titled in the name of Respondent, The Holy Land Foundation for Relief and Development (“HLF”).

4. Admit, upon information and belief, the averments contained in paragraph 4 of the Petition.

5. Admit, upon information and belief, the averments contained in paragraph 5 of the Petition, and refer to the restraining order in question for the terms, contents and conditions thereof. (A true and correct copy of the restraining order is attached hereto as Exhibit A.)

6. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 6 of the Petition, except admit that Morgan Stanley, after being placed on notice of the restraining notice, advised the Petitioners that it was unable to comply with the writ of execution, and refer to the restraining order for the terms, contents and conditions thereof.

7. State that the allegations contained in paragraph 7 of the Petition constitute a legal conclusion as to which no response is required. If and to the extent that a response is deemed to be required, Morgan Stanley and MSDW deny the remaining averments

relating to them, and deny knowledge or information sufficient to form a belief as to the truth of the allegations relating to other parties.

8. Admit that Petitioners purport to bring this turnover proceeding pursuant to CPLR §§ 5225 and 5227, and otherwise deny the averments contained in paragraph 8 of the Petition.

### **JURISDICTION AND VENUE**

9. Admit that Petitioners purport to ground jurisdiction under various federal statutes, the Federal Rules of Civil Procedure and New York's Civil Practice Law and Rules, as well as the Court's ancillary enforcement jurisdiction.

10. Admit that Petitioners purport to ground jurisdiction over respondents pursuant to Fed.R.Civ.P. 4(k) and CPLR §§ 301 and 302.

11. Deny knowledge or information sufficient to form a belief as to the truth of the factual averments contained in paragraph 11 of the Petition, and state further that the remaining averments contained in paragraph 11 constitute a legal conclusion as to which no response is required.

### **THE PARTIES**

12. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 12 of the Petition.

13. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 13 of the Petition.

14. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 14 of the Petition.

15. Deny knowledge or information sufficient to form a belief as to the truth of

the averments contained in paragraph 15 of the Petition.

16. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 16 of the Petition.

17. Admit the allegations of paragraph 17 of the Petition.

18. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 18 of the Petition.

19. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 19 of the Petition.

20. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 20 of the Petition.

21. Deny knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 21 of the Petition.

### **STATEMENT OF FACTS**

#### **a. Petitioners' Judgment**

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Petition.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Petition.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Petition.

25. State that the averments contained in paragraph 25 of the Petition constitute a legal conclusion as to which no response is required, and otherwise refer to the Antiterrorism Act, 18 U.S.C. § 2331 et seq., for the terms, contents and conditions thereof.